

In the Matter of Merchant Mariner's Document No. Z-183668-D4 and all other Licenses,
Certificates and Documents

Issued to: MAURICE MAINS JOHNSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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MAURICE MAINS JOHNSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 1 November 1955, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-183668-D4 issued to Maurice Mains Johnson upon finding him guilty of misconduct based upon six specifications alleging in substance that while serving as deck maintenanceman on board the American SS MAYO LYKES under authority of the document above described, on or about 18 August 1955, while said vessel was in a foreign port, he failed to perform his duties; on 27 August, 4 October and 20 October 1955, he failed to perform his duties due to intoxication; on 4 October, he endangered the vessel by smoking in bed while intoxicated; and on 26 October 1955, he failed to join the vessel at Mobile, Alabama.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty to the charge and four of the specifications proffered against him; and a plea of "not guilty" to the other two specifications.

Thereupon, the Investigating Office made his opening statement and introduced in evidence the testimony of three witnesses.

In defense, Appellant offered in evidence his sworn testimony. He admitted going to sleep with a lighted cigarette on the date alleged in one of the two specifications to which he had entered a plea of "not guilty." Appellant denied that he failed to perform his duties on 20 October.

At the conclusions of the hearings, having heard the argument of the Investigating Officer (Appellant waived argument) and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and four specifications had been proved by pea; and that the other two specifications were proved by the evidence. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-183668-D4 and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

Between 18 August and 26 October 1955, Appellant was serving as deck maintenancemen on board the American SS MAYO LYKES and acting under authority of his Merchant Mariner's Document No. Z-183668-D4 while the ship was on a foreign voyage.

On 18 August, 27 August, 4 October and 20 October 1955, Appellant failed to perform his duties. On the latter three dates, Appellant's failure to perform his duties was due to his intoxication.

About 0600 on 4 October 1955, the ship was at sea when the Second Mate smelled smoke while on a regular round of inspection. The Second Mate discovered that Appellant had fallen asleep in his bunk with a lighted cigarette and caught his clothes on fire. The second Mate poured water on Appellant's clothing since he could not be awakened by the Second Mate. Appellant was under the influence of alcohol at this time.

On 26 October 1955, Appellant failed to join his vessel upon her departure from Mobile, Alabama.

Appellant has been going to sea on large vessels since 1941. His prior record consists mainly of three offenses of failure to join and three offenses of failure to perform his duties.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the order of revocation is too severe for the offenses committed by him.

OPINION

In view of the accumulation of offenses of the same nature which are under consideration in this case, it is my opinion that the order of revocation is entirely justified. Also, there is substantial evidence in the record to support the serious allegation that Appellant endangered the vessel by smoking in bed while intoxicated on 4 October 1955. Under these circumstances, the order of revocation will be sustained.

ORDER

The Order of the Examiner dated at New Orleans, Louisiana, on 1 November 1955, is AFFIRMED.

J. A. Hirshfreed